

REMARKS

Reconsideration and allowance of the present application based on the foregoing amendments and the following remarks are respectfully requested.

Claims 1-8 and 33-35 are currently pending in the present application.

The Examiner's indication that claims 5 and 33 would be allowable if rewritten in independent form is acknowledged and appreciated. Accordingly, these claims are presented as new independent claims 34 and 35.

Claim 1 stands rejected as being anticipated by U.S. Patent No. 6,145,243 to Wigton. To overcome this rejection, claim 1 has been further amended to clarify the offset and external relationship of the insect trap and the exhaust tube, and the elements of the insect trap.

In the previous Amendment, claim 1 was amended to recite that the insect trap assembly (which includes the housing, the vacuum generator, and the insect trap) and the exhaust tube are "offset from and exteriorly of one another." This "exteriorly of one another" language was believed to more clearly clarify the claim scope and differentiate claim 1 from the applied prior art. In the Official Action, the Examiner noted that portion 54 of the exhaust tube is located exteriorly of the insect trap assembly. However, the majority of (and the vertical part of) the exhaust tube is inside the insect trap assembly.

To more clearly emphasize the respective locations of the exhaust tube and the insect trap assembly, claim 1 has been amended to recite (a) that the exhaust tube includes an outlet "open to the atmosphere," and (b) that the insect trap assembly and the exhaust tube are positioned "offset and entirely exteriorly from one another." Because the exhaust tube includes an outlet open to the atmosphere, portion 54 alone cannot be the exhaust tube, and certainly cannot be a "generally vertically extending exhaust tube" since it is horizontal. Moreover, the exhaust tube as a whole, "which extends through the insect trap assembly and its inlet tube" cannot be regarded as "entirely" exterior of the insect trap assembly.¹

¹ No statement herein should be taken as an admission that the disclosed embodiment of this application is not covered by the claims of the '243 patent or any other patent/application of the assignee. Indeed, in the disclosed embodiment, at least some of the exhaust may be drawn into the insect trap assembly and exited from its bottom so that a counterflow may be created between the flows in and out of the insect trap assembly (similar to that described in the '243 patent and its parent). This is a separate issue from the location of the offset and exteriorly located exhaust tube recited in claim 1. Likewise, these

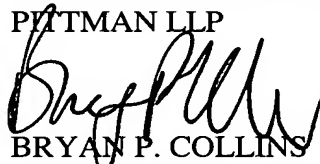
Accordingly, claim 1, as amended, is submitted to be patentable, and withdrawal of the rejection based on Wigton is respectfully requested.

Claims 2-8 and 33 depend from claim 1. These dependent claims are submitted to be patentable based on upon such dependency, and also for the reason that they recite additional patentable features.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance, and a Notice to that effect is earnestly solicited.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,
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comments should not be taken as limiting claim 1 to an arrangement where counterflow is created.